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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,532	03/10/2004	Scott S. McDaniel	14883US02	4394

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EXAMINER
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ART UNIT	PAPER NUMBER
2616	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/797,532	MCDANIEL ET AL.
	Examiner	Art Unit	
	Brian D. Nguyen	2616	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-56</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-56</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>10 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All   b)☐ Some *   c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Drawings

1.   The drawing is objected to because all blocks in figures 1-3 should be labeled with

descriptive legends. A proposed drawing correction or corrected drawings are required in

reply to the Office action to avoid abandonment of the application. The objection to the

drawings will not be held in abeyance.

Claim Objections

2.   Claim 1 is objected to because of the following informalities:

Claim 1, line 4, the terms "adapted to" is not a positively recited limitation. It is

suggested to delete these terms from the claim.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1-12, 16-18, 21, 37-40, and 51-55 are rejected under 35 U.S.C. 102(e) as being

anticipated by Frantz et al (6,757,725).

Regarding claims 1-2 and 21, Frantz discloses a communications system, comprising: a

network interface card (NIC 210); and a management device (management sub-system 140)

coupled to the NIC, wherein the NIC is adapted to merge communications traffic of the

management device with the NIC (see, for example, col. 2, lines 54-61).

Regarding claims 3-6, Frantz discloses features described in claims 3-6 (see figures 1

and 2 and col. 1, lines 16-24).

Regarding claims 7-10, Frantz discloses filters, processor, and MAC that perform

functions described in claims 7-10 (see, for example, col. 7, lines 6-10; col. 8, lines 49-54; and

processors 25 and 150 in figure 2).

Regarding claims 11 and 12, Frantz discloses the use of command to configure the filter

(see col. 7, lines 7-10 and col. 9, lines 55-67).

Regarding claims 16 and 17, Frantz discloses processor and MAC that perform functions

described in claims 16 and 17 (see, for example, col. 8, lines 49-54 and processors 25 and 150 in

figure 2).

Regarding claim 18, Frantz discloses the management traffic, command and response are

passed between the NIC and the management device (see col. 2, lines 42-48).

Regarding claims 37 and 38, Frantz discloses a method for communications, comprising:

(a) providing access to and from a network for a management device via a NIC(see figure 2); (b)

configuring one or more filters of the NIC via one or more commands generated by the

management device (see col. 7, lines 6-10); (c) filtering incoming packets via the one or more

filters (see col. 7, lines 6-10); and (d) forwarding the filtered packets based upon one or more

matches between information carried by the filtered packets and one or more filtering parameters

and the filtered packets to the management device for local processing (see col. 2, lines 49-61).

Regarding claim 39, Frantz discloses the incoming packets to the NIC are forwarded as received if the incoming packets do not carry information matching one or more filtering parameters (see col. 2, lines 56-61 where incoming packets are forwarded as received to the server if the destination address of incoming packets are not matched the address of the management sub-system. See also paragraph 07 of the background of the intention of the applicant's application).

Regarding claim 40, Frantz discloses the incoming packets to the NIC are forwarded as received if the one or more filters are not properly configured (see col. 2, lines 49-61; col. 8, lines 49-65; and col. 9, lines 55-67 where Frantz teaches of configuring the system routing. Assuming that the address of the management sub-system is not properly configured, then none of the incoming packets will be forwarded to the management sub-system. The incoming packets will be forwarded to the server 100 and to elements of the server 100).

Regarding claims 51-52, and 55, Frantz discloses a method of remote management over a network, comprising: accessing the network via a plurality of network interface cards (NICs) of a local server system (see figure 2); communicating between a local manager (management sub-system (140) of the local server system and a remote manager (management console 200) over the network through a NIC selected by the local manager, the selected NIC being one of the plurality of NICs (see figure 2); managing the local server system via the local manager; and responding locally to management commands sent over the network from the remote manager (see, for example, col. 4, lines 50-58).

Regarding claim 53, Frantz discloses the sent response comprises graphical information (see graphical device in management console 200 where information can be displayed.

Regarding claim 54, Frantz discloses the selected NIC provides exclusive access to and

from the network for the local manager (see NIC 210).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz in view of

Robotham et al (2004/0100964).

Regarding claim 13, Frantz does not specifically disclose storing only a latest response to

a received and expected command. However, to store a latest response or to any other response is

a matter of choice. Robotham discloses storing the latest response (ACK) (see paragraph 0053).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to store the response as taught by Robotham in the system of Frantz in order

to determine which response(s) were not received.

7.   Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz in view of

Kobayashi et al (2003/0179712).

Regarding claim 14, Frantz does not specifically disclose the command and the response

each comprises an identical sequence number. However, this feature is well known in the art.

Kobayashi discloses this feature (see paragraph 2241). Therefore, it would have been obvious to

a person of ordinary skill in the art at the time the invention was made to return a response

corresponding to each sequence number as taught by Kobayashi in the system of Frantz in order

to distinguish one response from the others.

8.   Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz in view of

Brasic et al (2004/0156350).

Regarding claim 15, Frantz does not specifically disclose stores a particular command

until a corresponding response has been received. However, this feature is well known in the art.

Brasic discloses this feature (see paragraph 0015). Therefore, it would have been obvious to a

person of ordinary skill in the art at the time the invention was made to stores a particular

command until a corresponding response has been received as taught by Brasic in the system of

Frantz in order to save the packet for retransmission when needed

9.   Claims 19, 22-26, 30-36, and 56 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Frantz.

Regarding claims 19, 22-24, 36, and 56, Frantz discloses a plurality of additional NICs,

each NIC being coupled to the management device (see NIC 95 and col. 8, lines 1-2). Frantz also

teaches about switching to another NIC when the NIC fails (see col. 9, lines 55-67). Frantz does

not specifically disclose if the NIC fails, select a NIC from the addition NICs. However, Frantz

teaches in col. 8, lines 62-65 that as one skilled in the art will understand, however, other

arrangements and partitions of transmission is possible and may be practiced by one skilled in

the art implementing the present disclosure and in col. 10, lines 4-7 that the principles of the

invention are applicable to any system in which it is desirable to have a computer, workstation,

or server share a NIC with another device to which it is connected. Therefore, it would have been

obvious to a person of ordinary skill in the art at the time the invention was made to select a NIC

from the additional NICs when the NIC fails in order to prevent a service interruption.

Regarding claims 25 and 32, Frantz discloses a server system (see col. 10, lines 4-7).

Regarding claim 26, Frantz discloses filters (see col. 7, lines 6-10).

Regarding claims 30-31, Frantz further discloses a management console (see col. 4, lines

50-58).

Regarding claim 33, Frantz discloses peripheral device (see col. 5, lines 37-41).

Regarding claim 34, Frantz further discloses a memory (see figure 2).

Regarding claim 35, Frantz discloses switches (see col. 4, lines 53-56).

10.   Claim 20 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Frantz in view of Downer (2003/0122683).

Regarding claims 20 and 27-29, Frantz discloses all the claimed subject matter as

described in previous paragraphs except for system sensors. However, a management system

with sensors is well kn0own in the art. Downer discloses this feature (see sensor 306). Therefore,

it would have been obvious to a person of ordinary skill in the art at the time the invention was

made to use the sensors as taught by Downer in the system of Frantz in order to detect and report

system operation information.

11.   Claims 41, 43, 45-46, and 49-50 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Frantz in view of Kobayashi and Brasic.

Regarding claims 41, 43, 45-46, and 49-50, Frantz discloses a method of communications

between a NIC and a management device, comprising: generating a command in the

management device, sending the command to a selected NIC; executing the command in the

selected NIC; and generating a response to the command (see, for example, figure 2; col. 2, lines 49-61; and col. 9, lines 55-67). Frantz does not specifically disclose the command and the response comprises a sequence number, storing the command, and resending the command. However, these features are well known in the art. Kobayashi discloses sequence number (see paragraph 2241) and Brasic discloses storing and resending the command (see paragraph 0015). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the sequence number and storing the command as taught by Kobayashi and Brasic in the system of Frantz in order to help identifying and managing the transmission of packets in the network.

12.   Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz in view of Kobayashi and Brasic and further in view of Yi et al (2003/0099305).

Regarding claim 42, Frantz in view of Kobayashi and Brasic does not specifically disclose delete the stored command. However, this feature is well known in the art. Yi discloses deleting successfully transmitted command (see paragraph 0022). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to delete the command as taught by Yi in the system of Frantz in order to free memory.

13.   Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz in view of Kobayashi and Brasic and further in view of Robotham.

Regarding claim 44, Frantz in view of Kobayashi and Brasic does not specifically disclose storing only a latest response to a received and expected command. However, to store a latest response or to any other response is a matter of choice. Robotham discloses storing the latest response (ACK) (see paragraph 0053). Therefore, it would have been obvious to a person

of ordinary skill in the art at the time the invention was made to store the response as taught by

Robotham in the system of Frantz in order to determine which response(s) were not received.

14.   Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz

in view of Kobayashi and Brasic and further in view of Simonoff (2002/0016861).

        Regarding claims 47 and 48, Frantz in view of Kobayashi and Brasic does not

specifically disclose re-executed the command. However, Simonoff discloses re-executed the

conflicting commands. Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to re-executed the command as taught by Simonoff in the

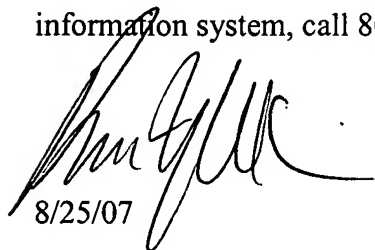system of Frantz in order to guarantee the command is executed.

Conclusion

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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applications is available through Private PAIR only. For more information about the PAIR

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

8/25/07

**BRIAN NGUYEN
PRIMARY EXAMINER**